

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER MITCHELL,	§	
	§	No. 635, 2009
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	Cr. ID Nos. 0710005683
Plaintiff Below,	§	0711006220
Appellee.	§	

Submitted: April 12, 2010¹
Decided: June 1, 2010

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 1st day of June 2010, having considered the Clerk's notice to show cause why this appeal should not be dismissed as untimely filed, the appellant's response to the notice, the appellee's answer in support of dismissal, and the position of the appellant's Superior Court counsel, it appears to the Court that:

(1) On November 2, 2009, the Court received the appellant's notice of appeal from the Superior Court's August 6, 2009 adjudication and sentencing of the appellant for a violation of probation (VOP). Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before September 7, 2009.

¹ The Court stayed further action in this case pending consideration of a rule change regarding a defense counsel's continuing obligation on appeal to a client sentenced for a probation violation. *See* Del. Supr. Ct. R. 26(k) (effective April 12, 2010).

(2) A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period to be effective.² The record reflects that the appellant was informed of the thirty-day appeal period but failed to file his notice of appeal in a timely manner. This case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.³

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

² Del. Supr. Ct. R. 10(a); *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

³ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).